STATUTORY INSTRUMENTS

1988 No. 532

TERMS AND CONDITIONS OF EMPLOYMENT

The Statutory Maternity Pay (General) Amendment Regulations 1988

Made - - - -	*17th March 1988*
Laid before Parliament	*17th March 1988*
Coming into force	*6th April 1988*

The Secretary of State for Social Services, in exercise of the powers conferred upon him by sections 46(8) and (9) and 84(1) of, and paragraphs 11 and 11A of Schedule 4 to, the Social Security Act 1986(**a**) and of all other powers enabling him in that behalf, by this instrument, which contains only regulations made under the provisions of the Social Security Act 1986 specified above and which is made before the end of the period of 12 months from the commencement of those enactments, makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Statutory Maternity Pay (General) Amendment Regulations 1988 and shall come into force on 6th April 1988.

(2) In these Regulations, the "principal regulations" means the Statutory Maternity Pay (General) Regulations 1986(**b**).

Amendment of regulation 4 of the principal regulations

2. At the end of regulation 4 of the principal regulations (modification of entitlement provisions), there shall be inserted the following paragraph:

"(3) In relation to a woman to whom either paragraph (1) or paragraph (2) applies, section 48 of the 1986 Act shall be modified so that –

(a) subsection (2) has effect as if the reference to the period of 8 weeks immediately preceding the 14th week before the expected week of confinement was a reference –

(i) in a case to which paragraph (1) applies, to the period of 8 weeks ending with the last day in respect of which she was paid in accordance with her contract of service with her employer, or

(ii) in a case to which paragraph (2) relates, to the period of 8 weeks immediately preceding the week in which her confinement occurred;

(**a**) 1986 c. 50; section 84(1) is an interpretation provision and is cited because of the meaning ascribed to the words "prescribed" and "regulations"; section 46(8) is amended by and section 46(9) is inserted by the Social Security Act 1988 (c. 7) Schedule 4, paragraph 16; paragraph 11 of Schedule 4 was amended by the Social Security Act 1988, Schedule 4, paragraph 19(1) and paragraph 11A was inserted in Schedule 4 by the Social Security Act 1988, Schedule 4 paragraph 19(2). (**b**) S.I. 1986/1960.

[SS88/1818]

(b) subsection (4) has effect as if the words "or would but for her dismissal or confinement have been" were inserted after the words "expected week of confinement has been"; and

(c) subsection (5) has effect as if there were added at the end of the subsection the words –

"and for the purpose of this subsection –

(a) a contract of service which ended before the end of the week immediately preceding the 14th week before the expected week of confinement shall be deemed to have continued until the end of that week; and

(b) in any week which falls –

(i) after the week preceding the week in which her employment ended or confinement occurred, but

(ii) before the 14th week before the expected week of confinement,

the woman shall be deemed to have been employed under her contract of service for the same number of hours weekly as that which her contract involved in the week preceding the week in which her employment ended or her confinement occurred."

Effect of statutory maternity pay on invalidity benefit

3. Immediately after regulation 21 of the principal regulations, there shall be inserted the following regulation:

"Effect of statutory maternity pay on invalidity benefit

21A.—(1) For the purpose of determining a woman's entitlement to invalidity pension under section 15 of the 1975 Act or under section 15 of the Social Security Pensions Act 1975(**a**), a day which falls within the maternity pay period shall, notwithstanding paragraph 11 of Schedule 4 to the 1986 Act, be treated as a day of incapacity for work where –

(a) on that day she was incapable of work by reason of some specific disease or bodily or mental disablement, work for this purpose being work which the woman can reasonably be expected to do; and

(b) that day is not treated under section 17(2) of the 1975 Act as a day which is not a day of incapacity for work; and

(c) that day and the day immediately preceding the first day of the maternity pay period both fall within the same spell of incapacity for work, and for this purpose a spell of incapacity for work consists of 4 or more consecutive days of incapacity for work; and

(d) the woman was entitled to invalidity pension on the day immediately preceding the first day of the maternity pay period.

(2) Where by virtue of paragraph (1) a woman is entitled to invalidity pension for any week (including part of a week), the total amount of invalidity pension (including any increase for a dependant) and invalidity allowance (invalidity benefit) payable to her for that week shall be reduced by an amount equivalent to any statutory maternity pay to which she is entitled in accordance with Part V of the 1986 Act for the same week, and only the balance, if any, of the invalidity benefit shall be payable to her."

Signed by authority of the Secretary of State for Social Services.

Michael Portillo
Parliamentary Under-Secretary of State,
Department of Health and Social Security

17th March 1988

(**a**) 1975 c. 60.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which come into force on 6th April 1988, are made under powers contained in Part V of and Schedule 4 to the Social Security Act 1986 ("the 1986 Act") as amended by the Social Security Act 1988, Schedule 4, paragraphs 16 and 19. These powers have not yet been in force for 12 months. Accordingly the Regulations are exempt, by section 61(5) of the 1986 Act, from reference to the Social Security Advisory Committee and are made without reference to that Committee.

Regulation 2 contains modifications of section 48 of the 1986 Act where a woman's employment is ended, or her confinement occurs, before the 14th week before the expected week of confinement.

Regulation 3 enables a woman who was entitled to invalidity benefit immediately before the maternity pay period began to retain her entitlement during that period for so long as her incapacity persists, but the amount of benefit payable to her is abated by a sum equal to the amount of statutory maternity pay to which she is entitled.